
FINAL RECOMMENDATIONS FOR THE BOARD OF CHIROPRACTIC EXAMINERS

FINAL RECOMMENDATIONS OF THE JOINT COMMITTEE ON BOARDS, COMMISSIONS, AND CONSUMER PROTECTION

ISSUE #1: Should the Board of Chiropractic Examiners be continued?

Recommendation #1: *The Joint Committee recommends that regulation of the chiropractic profession by the Board of Chiropractic Examiners should be continued and that another sunset review be required in five years.*

Staff Comments: Consumers should continue to be assured that chiropractors are appropriately licensed. The licensing of chiropractors ensures that they are educated and trained in the skills and abilities to provide safe and effective care. When there is misconduct by a chiropractor, regulation of the profession through the Board's enforcement structure enables for appropriate action to be taken.

ISSUE #2: Should the Chiropractic Act be amended by an initiative statute to ensure that all statutes related to the regulation of chiropractic are constitutional; and/or, should the Act be amended to allow future amendment by statute without a vote of the people under limited conditions?

Recommendation #2: *The Joint Committee recommends that the Board (1) identify those statutes that were enacted without a vote of the people that could be considered amendments to the Chiropractic Act; (2) determine if additional amendment of the Chiropractic Act is necessary to ensure that these statutes cannot be challenged; and, (3) determine in conjunction with the Joint Committee staff and stakeholders whether the Chiropractic Act should be amended to permit amendment by the Legislature without a vote of the people and, if so, on what terms.*

Staff Comments: Since the Chiropractic Act was created by initiative in 1922 it has been amended by initiative statute several times. In addition, since 1993 dozens of provisions in the Business and Professions, Civil, Corporations, Family, Health and Safety, Labor, Penal, Welfare and Institutions Codes and the Code of Civil Procedure that apply to the other healing arts boards, have been extended to the Board of Chiropractic Examiners. The statutes that made these changes were enacted by the Legislature without a vote of the people. As a consequence, the potential exists for these statutes to be vulnerable to a legal challenge. Therefore it may be necessary to protect them.

In addition, since the last review of the Board there have been a couple of attempts to amend the Chiropractic Act to implement recommendations of the Joint Committee. These were thwarted by the Department of Finance and the Legislature due to the costs of placing an initiative on the ballot. Hence it has become very difficult to modify the Act, even for minor changes to update its provisions. In modern times most initiatives contain provisions allowing the Legislature to amend them without requiring a vote of the people under specified conditions. For example an amendment could be enacted by initiative statute to allow the Legislature, by an extraordinary vote, to amend the Chiropractic Act to further its original purposes.

ISSUE #3: Should the current composition and make-up of the Board, with five professional and two public members, be changed?

Recommendation #3: *The Joint Committee recommends that the Board continue to seek amendments to the Initiative Act, in conjunction with other proposed amendments, to add two additional public members, with one each appointed by the Senate and the Assembly.*

Staff Comments: As part of the last review the Joint Committee recommended that the Board increase its membership to add two new public members, with one being appointed by the Senate Rules Committee and the other being appointed by the Speaker of the Assembly. Under existing law, this change would have to be made by initiative statute. This change would also be consistent with changes in the make-up of other healing arts boards to add public members to represent consumer interests. It is based on the premise that this composition would provide adequate public representation while continuing to maintain the expertise needed for chiropractic issues.

ISSUE #4: What is the status of the fund reserve and the General Fund loan, and what efforts, if any, should be taken to reduce the overall reserve?

Recommendation #4: *The Joint Committee recommends that the Board work with the Department of Finance to ensure that full repayment of the loan to the General Fund is reflected in the Budget Act; and, that the Board should develop a plan to reduce the level of the reserve to a more reasonable level.*

Staff Comments: At present, the Board has approximately a \$5 million reserve in its contingency fund. This includes a \$4 million loan to the General Fund from the surplus in the 2003-04 budget year. Overall this translates into a reserve level of about two years, when a three- to four-month reserve is the recommended standard for most boards. The Board is proposing to increase its staffing to address workload issues and modify its fee schedules to begin reducing the reserve.

ISSUE #5: Should the Board establish that a Bachelors Degree be a requirement for licensure?

Recommendation #5: *The Joint Committee recommends that the Board continue to study the need for a Bachelor's Degree requirement for licensure and report back to the Legislature on its findings prior to its next review.*

Staff Comments: The Board is constantly reviewing its licensing requirements, including whether or not to require a Bachelor's Degree. Since California licenses about 20 percent of the nation's chiropractors any change in education requirements by the Board will probably become the basis for a national trend. For this reason and others the Board wants to carefully assess the situation before proposing a change in education requirements.

ISSUE #6: **Should the Board implement its proposed new fee structure, and if so, is an amendment to the Initiative Act necessary to authorize these changes?**

Recommendation #6: *The Joint Committee recommends that the Board implement its proposed new fee structure through the regulatory process, or if necessary, by changing the Chiropractic Act.*

Staff Comments: In its review of the existing fee schedule the Board candidly admitted that it does not currently have the regulatory fee authority to collect several fees it has been collecting. The Board also indicated that it has assessed the need to change existing fees and to add new ones. Although the Board intends to implement the proposed fee changes by regulation, there is some doubt as to whether this can be done without a change in the law. If so, an initiative statute would probably be necessary.

The following chart from the Sunset Review Report represents a summary of the Board's existing and proposed fee schedules.

Fee Schedule	Current Fee	Proposed Fee
Application Fee	\$100	*\$ 100
Initial License Fee	\$100	*\$ 100
Renewal Fee	\$150	*\$ 100
Duplicate Receipt/Renewal License***	\$ 5	\$ 25
Inactive License Renewal Fee	\$150	\$ 70
Forfeiture Fee (late renewal fee)	\$150	*\$ 100
College Approval Application Fee***	0	\$1,500
Continuing Education Course Fee	\$ 50	**\$ 30
Continuing Education Provider Fee***	0	\$ 350
Continuing Education Provider Renewal Fee***	0	\$ 200
Corporation Registration Application Fee	\$100	\$ 250
Corporation Special Report Filing Fee	\$ 5	\$ 40
Corporation Annual Renewal Fee***	\$ 10	\$ 150
License Certification/Out-of-State Verify.***	\$ 10	\$ 50
Reciprocal License Application Fee	\$ 25	\$ 125
Referral Service Application Fee	\$ 25	\$ 150
Replacement License Fee	\$ 25	\$ 40
Satellite Certificate Application Fee	\$ 5	\$ 50
Satellite Renewal Fee***	\$ 5	\$ 50

*Authority for fee amount is in the Act.

**Per each hour of course content requested.

***These fees will need to be established in the proposed fee regulation.

ISSUE #7: What is the status of the implementation of the citation and fine program?

Recommendation #7: *The Joint Committee recommends that the Board work with the Department of Finance to ensure that it has adequate resources to fulfill its state mandate to fully implement the citation and fine program.*

Staff Comments: The Board has had numerous staffing problems in implementing the citation and fine program. To date, only the citation portion of the program has been implemented. In the near future the Board plans to evaluate all current regulations and identify those that are obsolete, out-dated, duplicative or unnecessary. During this process the fine portion of the regulations would be promulgated.

ISSUE #8: Should the Board be required to disclose arbitration decisions, civil judgments and/or settlements to the public?

Recommendation #8: *The Joint Committee recommends that the Board identify the statutory basis for its existing disclosure policy, and determine whether that basis would support additional disclosures. If so, the Board should by regulation increase the amount of information it discloses, including malpractice judgments, settlements and arbitration awards. If the Board determines it needs additional statutory authority for additional disclosure, it should seek that authority.*

Staff Comments: According to the Board it does not have the capability or the staff to provide disclosure of arbitration decisions, civil judgments and/or settlements to the

public. Legislation was enacted recently (SB 1950 of 2002 and SB 231 of 2005) to require the Medical Board of California, Osteopathic Medical Board of California and California Board of Podiatric Medicine to provide disclosure of some settlement information about physicians, osteopaths and podiatrists, and to increase the amount of information these boards receive regarding malpractice judgments.

ISSUE #9: Since the number of days it takes to process complaints has more than doubled over the past four years, and the average number of days spent in the “pre-accusation” phase almost doubled as well in the most recent fiscal year, what can be done to reduce these timeframes?

Recommendation #9: *The Joint Committee recommends that the Board work with the Department of Finance and the Attorney General to ensure that it has adequate resources to process complaints in a more timely fashion.*

Staff Comments: The Board’s time it takes to process complaints has gone up steadily over the past four years and the number of days for the pre-accusation phase also jumped significantly. According to the Board, staff shortages and heavier workloads caused the increases in complaint processing times. The Board has requested an increase in staffing to address this problem.